

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHRISTIAN HEALTHCARE CENTERS,
INC.,

Plaintiff,

v.

DANA NESSEL, in her official capacity Attorney General of Michigan, JOHN E. JOHNSON, JR., in his official capacity as Executive Director of the Michigan Department of Civil Rights, PORTIA L. ROBERSON, ZENNA FARAJ ELHASON, GLORIA E. LARA, REGINA GASCO-BENTLEY, ANUPAMA KOSARAJU, RICHARD CORRIVEAU, and DAVID WORTHAMS, in their official capacities as members of the Michigan Civil Rights Commission,

Defendants.

No. 1:22-cv-00787

HON. JANE M. BECKERING

MAG. PHILLIP J. GREEN

**DEFENDANTS' MOTION TO
DISMISS PURSUANT TO FRCP
12(B)(1) AND (6)**

Jonathan A. Scruggs
Arizona Bar No. 030505
Ryan J. Tucker
Arizona Bar No. 034382
Henry W. Frampton, IV
South Carolina Bar No. 75314
Bryan D. Neihart
Arizona Bar No. 035937
Attorneys for Plaintiff
Alliance Defending Freedom
15100 N. 90th Street
Scottsdale, Arizona 85260
480.444.0020
jscruggs@ADFlegal.org
rtucker@ADFlegal.org
hframpton@ADFlegal.org
bneihart@ADFlegal.org

Tonya C. Jeter
Kimberly K. Pendrick
Attorneys for Defendants
3030 W. Grand Blvd., 10th Floor
Detroit, MI 48202
313.456.0067
jetert@michigan.gov
P55352
pendrickp@michigan.gov
P60348

Bryan W. Beach (P69681)
Attorney for Defendants
P.O. Box 30736
Lansing, MI 48909
517.335.7659
beachb@michigan.gov

John J. Bursch (P57679)
Attorney for Plaintiff
Alliance Defending Freedom
440 First Street NW, Suite 600
Washington, DC 20001
202.393.8690
jbursch@ADFlegal.org

/

**DEFENDANTS' MOTION TO DISMISS
PURSUANT TO FRCP 12(B)(1) AND (6)**

Defendants, through counsel and under Fed. R. Civ. P. 12(b)(1), move this Court to dismiss Plaintiff Christian Healthcare Centers (Plaintiff or Christian Healthcare) complaint. Defendants state in support:

1. Plaintiff's complaint should be dismissed because its claims are premature and thus not ripe for judicial review. Plaintiff's allegations are based on speculation and insufficient to maintain its claims.
2. Plaintiff also lacks standing where it cannot establish the requisite injury-in-fact to supports its claims.
3. This Court should abstain from deciding Plaintiff's Due Process Clause challenge where the appropriate state entities have not yet made any findings on the nature of Michigan's religious exemption as applied to public accommodations.
4. This Court should decline to issue declaratory relief where there is no actual controversy, there is no necessity to clarify the legal relations of the parties, and the issue of the scope of religious exemptions for public accommodations has not yet been determined by any Michigan agency or court.

5. The Court should decline to issue permanent injunctive relief where Plaintiff fails to show a continuing irreparable injury or that it lacks an adequate remedy at law. Further, no injunction is required where any declaration of unconstitutionality would put Defendants on notice regarding the unconstitutionality of the challenged statute.

6. For these reasons and the reasons stated more fully in the accompanying brief in support, Defendants respectfully request that this Honorable Court enter an order dismissing Plaintiff's complaint pursuant to Fed. R. Civ. P. 12(b)(1), in addition to any other relief this court deems just and equitable.

7. Pursuant to W.D. Mich. L.R. 7.1(d), counsel for Defendants contacted counsel for Plaintiff via email on November 2, 2022, to seek concurrence which was denied.

WHEREFORE, Defendants ask this Court to dismiss Plaintiff's complaint in its entirety.

Respectfully submitted,

/s/Tonya C. Jeter
Tonya C. Jeter
Kimberly K. Pendrick (P55352)
Bryan W. Beach (P69681)
Assistant Attorneys General
Attorneys for Defendants
Civil Rights and Elections Division
3030 W. Grand Blvd., 10th Floor
313.456.0067
jeter@Michigan.gov
P55352

Dated: November 18, 2022

CERTIFICATE OF SERVICE

I hereby certify that on November 18, 2022, I electronically filed the foregoing document(s) with the Clerk of the Court using the ECF System, which will provide electronic notice to the parties.

/s/Tonya C. Jeter
Tonya C. Jeter (P55352)
Assistant Attorney General